

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

In the matter of:

**CONFIDENTIALITY AGREEMENT
FOR THE CONDUCT OF EARLY NEUTRAL EVALUATION**

Civil No.

09-cv-0007
TJM/GHL

The parties hereto in this matter agree that the mediation proceedings, including any statement made or document prepared by any party, attorney, other participant, or by the mediator are confidential and privileged information, and will not be disclosed or referred to in any subsequent proceeding or document, or construed for any purpose as an admission against interest. Any documents submitted to the mediator and any statements made during the mediation proceedings are for settlement purposes only.

The confidentiality of the mediation proceedings does not extend to threats of imminent physical harm.

The parties understand and agree that the mediator has no authority to decide the case and is not acting as an advocate or attorney for any party. The mediator has no authority to compel resolution of the dispute. The parties understand that the mediation is voluntary and may be terminated at any time, either by agreement of the parties or at the discretion of the mediator if the mediator believes an impasse has been reached.

Proceedings before the mediator will be informal and the rules of evidence do not apply. No record, stenographic or tape recordings of the meetings will be made. The mediator's notes are confidential and will not be revealed. The mediator will not be subpoenaed to produce any documents submitted to the mediator. In no event will the mediator testify on behalf of a party.

No party will be bound by anything said or done at the proceedings unless an agreement or settlement is reached and approved by the appropriate authorities for all parties. If a settlement is reached, it will be reduced to writing and signed by all parties, and will be filed with the Clerk, U.S. District Court.

Date August 20, 2009

Yoder

Town of Morristown

Plaintiff

Defendant

By:

Signature

By:

Signature

Witnessed:

David J. Wukitsch

Signature of Evaluator

David J. Wukitsch, Esq.